

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:18-cv-278-FDW**

BRIAN L. MARTIN, JR.,)
)
Plaintiff,)
)
vs.)
)
KENNETH LASSITER, et al.,)
)
Defendants.)
)

ORDER

THIS MATTER is before the Court on its September 28, 2018, Order requiring Plaintiff to pay the filing fee or file an application to proceed *in forma pauperis* and file an Amended Complaint within 10 days. (Doc. No. 5). The Court warned Plaintiff that failing to comply would result in this case's dismissal without prejudice and without further notice. (Doc. No. 5 at 2). Plaintiff has not paid the filing fee, filed an application to proceed *in forma pauperis*, or filed an Amended Complaint and the time to do so has expired.

Plaintiff has failed to comply with the Court's September 28, 2018, Order and appears to have abandoned this case. This case will therefore be dismissed without prejudice. Fed. R. Civ. P. 41(b) ("If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it."); Link v. Wabash R.R. Co., 370 U.S. 626, 631-33 (1962) (although Rule 41(b) does not expressly provide for *sua sponte* dismissal, a district court has the inherent power to dismiss a case for lack of prosecution or violation of a court order).

IT IS, THEREFORE, ORDERED that:

- (1) This action is dismissed without prejudice for Plaintiff's failure to comply with the Order dated September 28, 2018.

(2) The Clerk of this Court is directed to terminate this action.

Signed: October 17, 2018



Frank D. Whitney
Chief United States District Judge

